

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Ontavious Derenta Plumer,	)	Civil Action No.: 2:19-cv-01551-RBH-MGB
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Charles Williams, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

This matter is before the Court for review of the Report and Recommendation (“R & R”) of United States Magistrate Judge Mary Gordon Baker, who recommends dismissing six defendants from this action.<sup>1</sup> *See* ECF No. 100.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of those portions of the R & R to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

No parties have filed objections to the R & R, and the time for doing so has expired.<sup>2</sup> In the

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<sup>1</sup> The Magistrate Judge issued the R & R in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.).

<sup>2</sup> Defendants’ objections were due by June 15, 2020, and Plaintiff’s objections were due by June 18, 2020. *See* ECF Nos. 100 & 101.

Although Defendants have not filed objections to the R & R (docketed at ECF No. **100**), they have filed a response in opposition to Plaintiff’s still-pending motion to amend (docketed at ECF No. **96**). *See* ECF No. 104. Plaintiff’s proposed amendment is a one-paragraph allegation against Defendant Harden (previously named in Plaintiff’s original complaint). *See* ECF No. 96-2. Defendants oppose Plaintiff’s motion to amend by arguing he failed to comply with the Magistrate Judge’s prior deadlines for filing an amended complaint. However, the motion to amend should be granted based upon the Magistrate Judge’s unobjected-to recommendation to include ECF No. **96-2** as part of Plaintiff’s Amended Complaint (along with ECF Nos. 72-2 and 72-4). In any event, the Court

absence of objections to the R & R, the Court is not required to give any explanation for adopting the Magistrate Judge's recommendations. *See Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’” (quoting Fed. R. Civ. P. 72 advisory committee's note)).

Having found no clear error, the Court **ADOPTS** the Magistrate Judge's R & R [ECF No. 100] and **DISMISSES** Defendants Charles Williams, Thomas Robertson, Captain Terry, Lieutenant Lancaster, Officer Clarke, and Bryan F. Stirling from this action. The Court **GRANTS** Plaintiff's motion to amend [ECF No. 96]. **This action will proceed as to Plaintiff's claims against Defendants Officer Collier, Lieutenant Taylor, Officer Banks, and Ms. Harden.** The Court **DIRECTS** the Clerk to file ECF Nos. 72-2, 72-4, and 96-2 as the operative Amended Complaint.<sup>3</sup>

**IT IS SO ORDERED.**

Florence, South Carolina  
July 7, 2020

s/ R. Bryan Harwell  
R. Bryan Harwell  
Chief United States District Judge

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**GRANTS** Plaintiff's motion to amend because (1) the Magistrate Judge implicitly extended the amendment deadline by recommending that ECF No. 96-2 form part of Plaintiff's Amended Complaint, and therefore good cause exists under Fed. R. Civ. P. 16(b)(4), *see generally Faulconer v. Centra Health, Inc.*, 808 F. App'x 148, \_\_ (4th Cir. 2020) (discussing good cause standard); and (2) amendment is not prejudicial, futile, or in bad faith. *See ACA Fin. Guar. Corp. v. City of Buena Vista*, 917 F.3d 206, 218 (4th Cir. 2019) (Rule 15(a)(2) standard).

<sup>3</sup> As the Magistrate Judge has previously explained, “an amended complaint . . . supersedes an initial complaint and renders it of no effect.” *Berkeley Cty. Sch. Dist. v. Hub Int'l Ltd.*, 944 F.3d 225, 241 (4th Cir. 2019) (internal quotation marks omitted).